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SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 21-0247 VC
Plaintiff,)	
v.)	<u>VIOLATIONS:</u>
NATHANIEL A. BROWN,)	18 U.S.C. § 1348 – Securities Fraud;
Defendant.)	18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) –
)	Forfeiture Allegation
)	
)	SAN FRANCISCO VENUE

I N F O R M A T I O N

The United States Attorney charges:

Introductory Allegations

At all times relevant to this Information:

1. The defendant NATHANIEL A. BROWN was an individual who resided in Santa Clara County in the Northern District of California.
2. Individual A was a friend of BROWN who also resided in the Northern District of California.
3. Infinera Corporation (“Infinera”) was a Delaware corporation headquartered in Sunnyvale in the Northern District of California. Infinera was a technology company in the business of selling optical networking equipment. Infinera’s common shares were registered pursuant to Section

INFORMATION

1 12(b) of the Securities Exchange Act of 1934 and traded on the NASDAQ Stock Market under the ticker
2 symbol INFN.

3 4. From about 2011 to November 2017, BROWN was employed as a Senior Revenue
4 Manager in Infinera's finance organization. BROWN's various duties at Infinera related to, but were
5 not limited to, invoicing, cash collections, and month-end and quarter-end closings of Infinera books.

6 5. WhatsApp was a messaging service owned by WhatsApp, Inc., which was in turn owned
7 by Facebook, Inc. Facebook was headquartered in Menlo Park, California. Beginning in or about
8 January 2017, WhatsApp also was headquartered in Menlo Park, California.

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10 COUNT ONE: (18 U.S.C. § 1348 – Securities Fraud)

11 6. The factual allegations of Paragraphs 1 through 5 are re-alleged and incorporated herein
12 as if set forth in full.

13 7. Beginning in or about April 2016 and continuing through in or about November 2017, in
14 the Northern District of California and elsewhere, the defendant,

15 NATHANIEL A. BROWN,
16 knowingly and with the intent to defraud executed and attempted to execute a scheme and artifice to
17 (a) defraud persons as to a material matter in connection with securities of an issuer with a class of
18 securities registered under Section 12 of the Securities Exchange Act of 1934 and that was required to
19 file reports under Section 15(d) of the Securities Exchange Act of 1934, and (b) obtain, by means of
20 material false and fraudulent pretenses, representations, and promises, money and property in
21 connection with the purchase and sale of securities of an issuer with a class of securities registered under
22 Section 12 of the Securities Exchange Act of 1934 and that was required to file reports under Section
23 15(d) of the Securities Exchange Act of 1934. In sum and substance, the defendant BROWN schemed
24 to defraud Infinera of confidential information related to Infinera's financial performance and financial
25 projections by collecting and receiving that information by virtue of his employment at Infinera and then
26 providing that information to Individual A (including through the use of WhatsApp), all while knowing
27 that BROWN had obtained the information through deceptive or improper means and while knowing
28 that Individual A intended to, and did, convert that information to Individual A's own use for the

1 purpose of executing securities transactions in Infinera stock.

2 All in violation of Title 18, United States Code, Section 1348.

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4 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

5 8. The allegations contained in this Information are re-alleged and incorporated by reference
6 for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and
7 Title 28, United States Code, Section 2461(c).

8 9. Upon conviction of the offense set forth in this Information, the defendant,
9 NATHANIEL A. BROWN,
10 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and
11 Title 28, United States Code, Section 2461(c), all property, real or personal, constituting, or derived
12 from proceeds the defendant and Individual A obtained directly and indirectly, as the result of that
13 violation, including but not limited to the following, a forfeiture money judgment.

14 If any of the property described above, as a result of any act or omission of the defendant:

- 15 a. cannot be located upon exercise of due diligence;
16 b. has been transferred or sold to, or deposited with, a third party;
17 c. has been placed beyond the jurisdiction of the court;
18 d. has been substantially diminished in value; or
19 e. has been commingled with other property which cannot be divided without
20 difficulty,

21 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,
22 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

23 All pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code,

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1 Section 2461(c), and Federal Rule of Criminal Procedure 32.2.

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3 DATED: 6/15/2021

STEPHANIE M. HINDS
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